

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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HERVE GUERRIER,

Plaintiff,

v.

ROBERT LEGRAND, *et al.*,

Defendant.

3:10-cv-00719-LRH-VPC

ORDER

Before this Court is the Report and Recommendation of U.S. Magistrate Judge Valerie P. Cooke (#27<sup>1</sup>) entered on December 20, 2011, recommending granting in part and denying in part Defendant's Motion to Dismiss (#20) filed on July 19, 2011. No objection to the Report and Recommendation has been filed. The action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)B and Local Rule 1B 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the Magistrate Judge's Report and Recommendation (#27) entered on December 20, 2011, should be adopted and accepted.

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<sup>1</sup>Refers to court's docket number.

1 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#27)  
2 entered on December 20, 2011, is adopted and accepted, and Defendant's Motion to Dismiss (#20) is  
3 GRANTED in part and DENIED in part as follows:

- 4 1. Defendant's Motion to Dismiss Defendant Scott in his official capacity based on Eleventh  
5 Amendment immunity is GRANTED, and Plaintiff's monetary damages claim against  
6 Defendant in his official capacity is DISMISSED with prejudice; and  
7 2. Defendant's Motion to Dismiss based on Plaintiff's failure to state a claim and qualified  
8 immunity is DENIED without prejudice.

9 IT IS SO ORDERED.

10 DATED this 20th day of January, 2012.

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14 LARRY R. HICKS  
15 UNITED STATES DISTRICT JUDGE  
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